



UNITED STATES PATENT AND TRADEMARK OFFICE

ilr
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.								
10/692,979	10/24/2003	William R. Campbell	PIED1110-1	1729								
7590 STACY L, TAYLOR DLA PIPER US-LLP Suite 1100 4365 Executive Drive San Diego, CA 92121-2133		02/07/2008	<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">LEVY, NEIL S</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td>1615</td><td></td></tr></table>		EXAMINER		LEVY, NEIL S		ART UNIT	PAPER NUMBER	1615	
EXAMINER												
LEVY, NEIL S												
ART UNIT	PAPER NUMBER											
1615												
			<table border="1"><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td>02/07/2008</td><td>PAPER</td></tr></table>	MAIL DATE	DELIVERY MODE	02/07/2008	PAPER					
MAIL DATE	DELIVERY MODE											
02/07/2008	PAPER											

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/692,979	Applicant(s) CAMPBELL ET AL.	
	Examiner NEIL LEVY	Art Unit 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 8-16, 19-22 & 32 are is/are pending in the application.
- 4a) Of the above claim(s) 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 12-15 and 32 is/are rejected.
- 7) ☒ Claim(s) 8-11, 19-22 is/are objected to.
- 8) ☒ Claim(s) 1-4, 8-16, 19-22 & 32 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

Claim 16 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 11/06/06.

Claim Rejections - 35 USC § 102

Claims 1-4, 12-15 & 32 STAND rejected under 35 U.S.C. 102(a& e) as being anticipated BY PEARLMAN 6303581

Fatty esters @ 10%, or from 0.1-80% are applied to coat hair & lice, in nontoxic solvents. Neither alcohol or insecticide is required.(col. 12, lines 39-42). Fatty esters are at col. 13, top.Solvents can be water, ether, ketones, for example(col. 13 lines 7-43).

Response to Arguments

Applicant's arguments filed 1/10/08 have been fully considered but they are not persuasive. A pplicant's arguments are directed to the instant compositions as applied being other than Pearlman's, & not dried. Examiner fails to find exclusion of any processing in the instant methods as claimed, in open language. However, the only argued for, & claimed, 1 hour death, is supported by 50% IPM& 50 % cyclomethicone,

or 100% IPM, neither of which give 100% kill in 1 hour. I can be seen, that the claim permits of 1 dead louse, in which case, there is nothing in Pearlman to preclude that effect, as the Pearlman disclosure provides the same composition applied as does applicant as it is claimed, & thus would have the same effects, recognized by Pearlman or not. If there is something missing that provides the 1 hour kill, but not claimed, or disclosed, that differs from Pearlman, it should be so claimed, & disclosed if Pearlman is to be overcome.

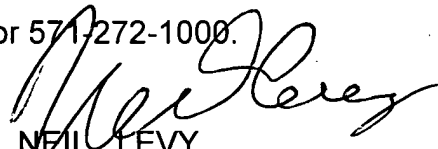
Any inquiry concerning this communication or earlier communications from the examiner should be directed to NEIL LEVY whose telephone number is 571-272-0619. The examiner can normally be reached on Tuesday-Friday, 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL WOODWARD can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number:
10/692,979
Art Unit: 1615

Page 4

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


NEIL LEVY
Primary Examiner
Art Unit 1615
